

**THE TOWN OF FOREST HEIGHTS  
RESOLUTION 24-21**

**A RESOLUTION TO APPROVE AN AMENDMENT OR CHANGE ORDER FOR A  
PUBLIC WORKS CONTRACT WITH FORT MYER CONSTRUCTION  
CORPORATION FOR THE PROJECT ALONG NORTH HURON DRIVE**

Introduced by: Mayor Habeeb-Ullah Muhammad

**WHEREAS**, the North Huron Drive Sidewalks – Phase I Project (Contract No. FHRFB 2-17) included reconstruction of more than 2,300 linear feet of pervious concrete sidewalk, reconstruction/upgrades to driveway aprons, construction of ADA compliant concrete ramps, tree and fence removal and installation, and pavement markings to allow for pedestrian flow and access to the area schools; and

**WHEREAS**, at its August 21, 2019, Town Council meeting, the Town Council approved Resolution 52-19 which awarded the bid and authorized the Mayor to execute a contract on behalf of the Town with Fort Myer Construction Corporation for the construction of a sidewalk along North Huron Drive for a total cost of \$539,449.10; and

**WHEREAS**, Resolution 42-20 was passed on July 15, 2020, to approve Change Order #1 (also known as Extra Work Order (“EWO”) #1) for the contract with Fort Myer Construction Corporation, regarding an issue raised by the awardee indicating that “there are some line items missing in the proposal such as GAB [Graded Aggregate Base] under the driveway[s];” and

**WHEREAS**, said price addition under Change Order #1 increased the overall amount of the bid response from \$539,449.10 to \$555,764.10, but would still result in the Fort Myer bid response being the lowest bidder; and

**WHEREAS**, the North Huron Safe Routes to School Project has been completed except for additional change orders pertaining to similar issues emanating from the unforeseen work items that were not anticipated in the original bid's scope of work but needed to complete the project in a timely manner during the declared COVID-19 emergency and since the public schools announced reopening for in-person hybrid learning starting in April 2021; and

**WHEREAS**, although the Mayor is delegated certain emergency powers during a declared health emergency to issue orders as are imminently necessary for the protection of life and property, and make emergency contracts and amendments to contracts not exceeding \$10,000 under Section 20.4 of the Town Code, the Mayor finds that it is in the best interest of the Town to have Change Order #2, including nine (9) items added to the scope of work, as ratified by the Council in this Resolution; and

**WHEREAS**, the table attached hereto as Exhibit 1 entitled "TOFH Close Out (Invoice #6)" depicts the nine line item changes, highlighted in red text, added to the scope of work entailing 37 discreet tasks or work items for North Huron Project; and

**WHEREAS**, both parties to the then proposed contract at the time agreed that this aspect of the scope of work was not made explicit in the advertised bid package nor was it adequately addressed in the original bid response by Fort Myer; and

**WHEREAS**, the price addition for Change Order #2 is \$38,146.18 and would increase the overall amount of the contract's consideration from \$555,764.10 to \$593,423.06; however since \$487.22 remains unexpended from the previous authorization only \$37,658.96 of additional funds are needed to be added to the authorized contract to cover the total price of work performed (\$593,423.06); and

**WHEREAS**, the following individual item change orders (Silt Fence (Item 3004) & Sediment Tank (Item 3005), ADA compliance (Items 2005, 5001, 5006, 6008, 6009), Asphalt Berm (Item 3006) submitted by the Contractor, Fort Meyer Construction Corporation, are attached hereto as Exhibits 2 through 4; and

**WHEREAS**, in addition, the following individual item change orders necessitated are the following (i) 3 driveways (grade too steep, cars dragging), (ii) panels (5-6) at Community Garden where newly poured sidewalk was covered with plastic and someone on bicycle drove through on top of plastic and caused ruts that made it unacceptable under ADA standards when inspected, and (iii) unidentified trucks drove over sidewalk panels and damaged them near Bell Acres Park, are also enumerated in Exhibit 1; and

**WHEREAS**, the Town has received Safe Routes to School monies in the amount of \$211,000.00 from the SHA to assist with the funding of this project; and

**WHEREAS**, since the contract had been executed, and performed and the changes described herein were necessary and reasonably needed to be expedited, the Town Council finds it to be in the best interest of the Town to approve the above-described Change Order #2 or amendment as described herein.

**NOW THEREFORE, BE IT RESOLVED** that the Mayor and Town Council of the Town of Forest Heights, Maryland have received, reviewed and approved the attached exhibits depicting the unit cost adjustments to the original bid amount, as adjusted by Change Order #2, as submitted by Fort Myer Construction Corporation referred to as Exhibits 1-5 of this Resolution.

**AND, BE IT FURTHER RESOLVED** that the Town Council hereby amends and ratifies Resolutions 52-19 and 42-20, to conform with the intent of this Resolution and to further approve and authorize the Mayor to execute a contract amendment or change orders with Fort Myer Construction Corporation in the revised amount of \$593,423.06 to carry out the

performance of the project described hereinabove to be paid from Budget line item 8018 "North Huron Street Reconstruction."

**AND, BE IT FURTHER RESOLVED**, that the Town Council of Forest Heights, Maryland hereby authorizes and approves the Mayor on behalf of the Town to execute any other related instrument or document necessary to carry out the intent of this Resolution.

**AND, BE IT FURTHER RESOLVED** that this Resolution shall take effect upon its passage.

**PASSED** this 16<sup>th</sup> day of June 2021.

**APPROVED:** By Resolution of the Town Council of The Town of Forest Heights, Maryland.

<u>ROLL CALL VOTE</u>	<u>YEA/NAY/ABSTAIN/ABSENT</u>
MUHAMMAD	<u>Yea</u>
BROWNSON	<u>Nay</u>
NOBLE	<u>Nay</u>
BARNES	<u>Yea</u>
HINES	<u>Yea</u>
WASHINGTON	<u>Yea</u>
ATKINSON	<u>Yea</u>

ATTEST:

MAYOR AND COUNCIL OF THE TOWN OF  
FOREST HEIGHTS, MARYLAND

**SIGNATURE ON FILE**

**SIGNATURE ON FILE**

Sherletta Hawkins, Town Clerk  
*MRS. VAUGHN*

Habeeb-Ullah Muhammad, Mayor

**SIGNATURE ON FILE**

Calvin Washington, Council President

CERTIFICATION

I, hereby certify, as the duly appointed Town Clerk of the Town of Forest Heights, Maryland, that on the 16<sup>th</sup> day of June 2021 with 5 Aye votes and 2 Nay vote the aforesaid Resolution 16-21 passed.

**SIGNATURE ON FILE**

Sherletta Hawkins, Town Clerk  
*MRS. VAUGHN*

Exhibits 1-5 (change orders and ToFH Close Out (Inv. #6) spreadsheet)

The Town of Forest Heights  
Resolution 24-21